

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IRMA ALLEN and BARTLEY MICHAEL
MULLEN, JR., individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

OLLIE'S BARGAIN OUTLET, INC.,

Defendant.

Case No.: 2:19-cv-00281-JFC

ELECTRONICALLY FILED

DEFENDANT OLLIE'S BARGAIN OUTLET, INC.'S MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b), Defendant Ollie's Bargain Outlet, Inc., by and through its undersigned attorneys, hereby moves this Court for entry of an order dismissing the National Class Action Complaint filed by Plaintiffs Irma Allen and Bartley Michael Mullen, Jr. because Plaintiffs lack standing to pursue their purported claims for violation of Title III of the Americans with Disabilities Act. Further grounds for this motion are set forth in Ollie's Memorandum of Law in Support, which is incorporated by reference. A proposed order is attached.

WHEREFORE, Defendant Ollie's Bargain Outlet, Inc. respectfully requests that this Court dismiss the Complaint in its entirety.

Dated: April 4, 2019

Respectfully submitted,

FOX ROTHSCHILD LLP

/s/ Richard L. Etter

Richard L. Etter (PA 92835)
500 Grant Street, Suite 2500
Pittsburgh, PA 15219
Telephone: (412) 394-5529
retter@foxrothschild.com

Thomas A. Mastroianni (PA 307168)
Ashley E. Baxter (PA 324480)
10 Sentry Parkway, Suite 200
Blue Bell, PA 19002
Telephone: (610) 397-6500
tmastroianni@foxrothschild.com
abaxter@foxrothschild.com

Counsel for Defendant Ollie's Bargain Outlet, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Ollie's Bargain Outlet, Inc.'s Motion to Dismiss has been served by electronic means through the Court's transmission facilities on all counsel of record.

FOX ROTHSCHILD LLP

Date: April 4, 2019

/s/ Richard L. Etter

Richard L. Etter